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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTHONY MICHAEL SMITH,

Defendant and Appellant.

E070401

(Super.Ct.No. 16CR060725)

OPINION

APPEAL from the Superior Court of San Bernardino County. Rodney A. Cortez, Judge. Affirmed.

Martin Kassman, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On November 21, 2016, defendant and appellant, Anthony Michael Smith, pled guilty to accessory after the fact (count 2; Pen. Code, § 32)¹ and receiving stolen property

¹ All further statutory references are to the Penal Code unless otherwise indicated.

exceeding \$950 (count 3; § 496, subd. (a)). Pursuant to the terms of the plea agreement, the court imposed a sentence of three years eight months of incarceration, of which the court suspended three years seven months and placed defendant on mandatory supervision.² After the filing of a second petition for revocation of defendant's mandatory supervision, the court found defendant in violation of his mandatory supervision and sentenced him to the previously suspended term of three years eight months of incarceration.

After defense counsel filed a notice of appeal and counsel from Appellate Defenders, Inc. filed an amended notice of appeal, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the facts and a statement of the case. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND³

Defendant's codefendant, Thomas Raymond Brown, burglarized the victim's home of approximately \$4,685 of personal property. Brown immediately fled in his truck to defendant's residence as officers tracking him spotted his vehicle. Defendant and Brown quickly covered Brown's vehicle with a tarp immediately prior to the officers'

² It does not appear that defendant ever served the 30-day sentence other than when defendant served periods of incarceration after revocations of his mandatory supervision, for which he received custody credits.

³ The parties stipulated the police reports would provide the factual basis for defendant's plea. We derive our factual recitation of the underlying offense from the police reports.

arrival at defendant's home. The People charged defendant as an accessory after the fact (count 2; § 32) and with receiving stolen property exceeding \$950 (count 3; § 496, subd. (a)). Defendant pled guilty as described above. The court placed defendant on mandatory supervision.

After the court released defendant from custody on November 21, 2016, defendant failed to report to probation immediately, not reporting until December 6, 2016. On November 27, 2016, an officer arrested and cite-released defendant for being under the influence of a controlled substance. Defendant reported late to probation on December 21, 2016, and admitted using methamphetamine. On January 13, 2017, officers arrested defendant for possession of a stolen vehicle.

The probation department filed a petition to revoke defendant's mandatory supervision on January 20, 2017, alleging defendant failed to keep his probation officer informed of defendant's place of residence, possessed a controlled substance without medical documentation, did not participate in rehabilitative programs directed by the probation department, and did not report to his probation officer as ordered.⁴ The court continued the hearing on the petition several times.

⁴ A probation officer filed a supplemental report on January 25, 2017, adding allegations that defendant had violated the terms of his supervision that he violate no law and abide by all terms and conditions of his supervision.

On October 24, 2017, defendant admitted violating the terms of his mandatory supervision. In return, defendant was ordered to complete a six-month Salvation Army program.⁵

On November 22, 2017, a probation officer filed a petition to revoke defendant's mandatory supervision. The petition alleged defendant had failed to report to the Salvation Army as previously ordered. Thus, defendant had failed to abide by the terms of his supervision, failed to participate in rehabilitative programs, and failed to report to the Salvation Army as ordered. The court continued the hearing on the petition multiple times.

On March 6, 2018, the probation department filed a supplemental report. The court released defendant from custody on December 4, 2017; defendant immediately reported to the Salvation Army program. Defendant left the program on January 8, 2018. Thereafter, defendant never reported to the probation department; instead, defendant surrendered himself to the court on January 17, 2018. The probation officer recommended the court revoke defendant's mandatory supervision and impose the previously suspended sentence.

On April 13, 2018, the court held a contested hearing on the petition to revoke defendant's mandatory supervision. The court heard the testimony of defendant's probation officer and defendant. After hearing argument from counsel, the court found defendant in violation of his mandatory supervision, denied his request to be reinstated on

⁵ The People also dismissed a misdemeanor charge of being under the influence of a controlled substance without a prescription. (Health & Saf. Code, § 11550.)

mandatory supervision, and sentenced defendant to the previously suspended term of three years eight months of incarceration.

II. DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

III. DISPOSITION

The judgment is affirmed.

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McKINSTER
J.

We concur:

RAMIREZ
P. J.

RAPHAEL
J.